

House File 2468 - Reprinted

HOUSE FILE 2468

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 658)

(As Amended and Passed by the House April 27, 2016)

A BILL FOR

1 An Act relating to the administration of the tax and related
2 laws by the department of revenue, including the renewable
3 energy tax credit, the solar energy system tax credit,
4 appeal procedures for certain centrally assessed property,
5 an extension of the utility replacement tax task force,
6 requiring background checks for job applicants and persons
7 performing work for the department of revenue, a sales and
8 use tax exemption for certain items used in performance of
9 a construction contract with designated exempt entities,
10 and including effective date and retroactive and other
11 applicability provisions.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 421.48 **Background checks.**

2 An applicant for employment with the department of revenue
3 shall be subject to a national criminal history check through
4 the federal bureau of investigation. A contractor, vendor,
5 employee, or any other individual performing work for the
6 department of revenue, shall be subject to a national criminal
7 history check through the federal bureau of investigation
8 at least once every ten years. The department of revenue
9 shall request the national criminal history check and shall
10 provide the individual's fingerprints to the department
11 of public safety for submission through the state criminal
12 history repository to the federal bureau of investigation.
13 The individual shall authorize release of the results of the
14 national criminal history check to the department of revenue.
15 The department of revenue shall pay the actual cost of the
16 fingerprinting and national criminal history check, if any.
17 The results of a criminal history check conducted pursuant to
18 this section shall not be considered a public record under
19 chapter 22.

20 Sec. 2. Section 422.11L, subsection 3, paragraph d, Code
21 2016, is amended to read as follows:

22 *d.* (1) A taxpayer must submit an application to the
23 department for each separate and distinct solar installation.
24 The application must be approved by the department in order to
25 claim the tax credit. The application must be filed by May
26 1 following the year of the installation of the solar energy
27 system.

28 (2) The department shall accept and approve applications
29 on a first-come, first-served basis until the maximum amount
30 of tax credits that may be claimed pursuant to subsection 4
31 is reached. If for a tax year the aggregate amount of tax
32 credits applied for exceeds the amount specified in subsection
33 4, the department shall establish a wait list for tax credits.
34 Valid applications filed by the taxpayer by May 1 following the
35 year of the installation but not approved by the department

1 shall be placed on a wait list in the order the applications
2 were received and those applicants shall be given priority
3 for having their applications approved in succeeding years.
4 Placement on a wait list pursuant to this subparagraph shall
5 not constitute a promise binding the state. The availability
6 of a tax credit and approval of a tax credit application
7 pursuant to this section in a future year is contingent upon
8 the availability of tax credits in that particular year.

9 Sec. 3. Section 422.11L, Code 2016, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 6. For purposes of this section, "*Internal*
12 *Revenue Code*" means the Internal Revenue Code of 1954, prior
13 to the date of its redesignation as the Internal Revenue Code
14 of 1986 by the Tax Reform Act of 1986, or means the Internal
15 Revenue Code of 1986 as amended to and including January 1,
16 2016.

17 Sec. 4. Section 423.3, subsection 80, Code 2016, is amended
18 to read as follows:

19 80. *a.* For purposes of this subsection, "*designated exempt*
20 *entity*" means ~~an~~ any of the following:

21 (1) An entity which is designated in section 423.4,
22 subsection 1 or 6.

23 (2) An entity which is an instrumentality of a county or
24 municipal government, including an agent of such entity, if
25 the entity was created for the purpose of owning, including
26 pursuant to a lease-purchase agreement, real property located
27 within a reinvestment district established under chapter 15J.

28 *b.* If Subject to the limitations in paragraph "c", if
29 a contractor, subcontractor, or builder is to use building
30 materials, supplies, and equipment in the performance of a
31 construction contract with a designated exempt entity, the
32 person shall purchase such items of tangible personal property
33 without liability for the tax if such property will be used in
34 the performance of the construction contract and a purchasing
35 agent authorization letter and an exemption certificate, issued

1 by the designated exempt entity, are presented to the retailer.

2 c. (1) The With regard to a construction contract with
3 a designated exempt entity described in paragraph "a",
4 subparagraph (1), the sales price of building materials,
5 supplies, or equipment is exempt from tax by **this subsection**
6 only to the extent the building materials, supplies, or
7 equipment are completely consumed in the performance of the
8 construction contract with the designated exempt entity.

9 (2) With regard to a construction contract with a designated
10 exempt entity described in paragraph "a", subparagraph (2),
11 the sales price of building materials, supplies, or equipment
12 is exempt from tax by this subsection only to the extent the
13 building materials, supplies, or equipment are completely
14 consumed in the performance of a construction contract to
15 construct a project, as defined in section 15J.2, subsection
16 10, which project has been approved by the economic development
17 authority board in accordance with chapter 15J.

18 ~~e. d.~~ Where Subject to the limitations in paragraph "c",
19 where the owner, contractor, subcontractor, or builder is also
20 a retailer holding a retail sales tax permit and transacting
21 retail sales of building materials, supplies, and equipment,
22 the tax shall not be due when materials are withdrawn from
23 inventory for use in construction performed for a designated
24 exempt entity if an exemption certificate is received from such
25 entity.

26 ~~d. e.~~ Tax Subject to the limitations in paragraph "c", tax
27 shall not apply to tangible personal property purchased and
28 consumed by a manufacturer as building materials, supplies, or
29 equipment in the performance of a construction contract for a
30 designated exempt entity, if a purchasing agent authorization
31 letter and an exemption certificate are received from such
32 entity and presented to a retailer.

33 Sec. 5. Section 429.2, subsection 2, paragraph c, Code 2016,
34 is amended to read as follows:

35 c. The director of revenue shall consider all evidence and

1 witnesses offered by the taxpayer and the department, including
2 but not limited to evidence relating to the proper valuation of
3 the property involved.

4 Sec. 6. Section 437A.15, subsection 7, paragraph b, Code
5 2016, is amended to read as follows:

6 b. The task force shall study the effects of the replacement
7 taxes under this chapter and chapter 437B on local taxing
8 authorities, local taxing districts, consumers, and taxpayers
9 through January 1, ~~2016~~ 2019. If the task force recommends
10 modifications to the replacement tax that will further the
11 purposes of tax neutrality for local taxing authorities, local
12 taxing districts, taxpayers, and consumers, consistent with the
13 stated purposes of this chapter, the department of management
14 shall transmit those recommendations to the general assembly.

15 Sec. 7. Section 437B.11, subsection 7, Code 2016, is amended
16 to read as follows:

17 7. The utility replacement tax task force created in section
18 437A.15 shall study the effects of the replacement tax on
19 local taxing authorities, local taxing districts, consumers,
20 and taxpayers through January 1, ~~2016~~ 2019. If the task
21 force recommends modifications to the replacement tax that
22 will further the purposes of tax neutrality for local taxing
23 authorities, local taxing districts, taxpayers, and consumers,
24 consistent with the stated purposes of this chapter, the
25 department of management shall transmit those recommendations
26 to the general assembly.

27 Sec. 8. Section 476C.3, subsection 4, paragraph b,
28 subparagraph (3), Code 2016, is amended to read as follows:

29 (3) (a) Of the maximum amount of energy production capacity
30 equivalent of all other facilities found eligible under this
31 chapter, ten megawatts of nameplate generating capacity or
32 energy production equivalent shall be reserved for solar energy
33 conversion facilities ~~with~~ that meet all of the following
34 requirements:

35 (i) The facility has a generating capacity of one and

1 one-half megawatts or less.

2 (ii) The facility is owned, in whole or in part, directly
3 or indirectly, or is contracted for, by utilities described in
4 section 476C.1, subsection 6, paragraph "b", subparagraphs (4)
5 and (5).

6 (iii) The facility is located in this state.

7 (iv) The facility meets the requirements of section 476C.1,
8 subsection 6, paragraphs "d" through "f".

9 (b) A solar energy conversion facility that meets the
10 requirements of and is found eligible under subparagraph
11 division (a) shall be considered an "eligible renewable energy
12 facility" for purposes of this chapter, notwithstanding any
13 contrary provisions of section 476C.1, subsection 6.

14 Sec. 9. Section 476C.3, subsection 7, Code 2016, is amended
15 to read as follows:

16 7. a. An owner meeting the requirements of section 476C.1,
17 subsection 6, paragraph "b", shall not be an owner of more than
18 two eligible renewable energy facilities. A person that has
19 an equity interest equal to or greater than fifty-one percent
20 in an eligible renewable energy facility shall not have an
21 equity interest greater than ten percent in any other eligible
22 renewable energy facility. This paragraph "a" shall not apply
23 to facilities described in section 476C.3, subsection 4,
24 paragraph "b", subparagraph (3).

25 b. An entity described in section 476C.1, subsection 6,
26 paragraph "b", subparagraphs (4) or (5), shall not have an
27 ownership interest in more than four facilities described in
28 section 476C.3, subsection 4, paragraph "b", subparagraph (3).

29 Sec. 10. SOLAR ENERGY SYSTEM TAX CREDIT
30 APPLICATIONS. Notwithstanding the provision in section
31 422.11L, subsection 3, paragraph "d", which requires
32 applications for the solar energy system tax credit to be filed
33 by May 1 following the year of the installation, all of the
34 following shall apply:

35 1. Applications for the solar energy system tax credit

1 filed after May 1, 2015, for solar energy systems installed
2 during the 2014 calendar year, shall be eligible for approval
3 under section 422.11L. Such applications shall be accepted and
4 approved on a first-come, first-served basis and shall first
5 be eligible for approval for the tax year during which the
6 application is received, but not before the tax year beginning
7 January 1, 2016.

8 2. Applications for the solar energy system tax credit
9 filed after May 1, 2016, for solar energy systems installed
10 during the 2015 calendar year, shall be eligible for approval
11 under section 422.11L. Such applications shall be accepted and
12 approved on a first-come, first-served basis and shall first
13 be eligible for approval for the tax year during which the
14 application is received, but not before the tax year beginning
15 January 1, 2017.

16 Sec. 11. EFFECTIVE UPON ENACTMENT. The section of this
17 Act providing for the approval of solar energy tax credit
18 applications filed after May 1 following the year of the
19 installation for solar energy systems installed during the 2014
20 and 2015 calendar years, being deemed of immediate importance,
21 takes effect upon enactment.

22 Sec. 12. EFFECTIVE UPON ENACTMENT. The following
23 provision or provisions of this Act, being deemed of immediate
24 importance, take effect upon enactment:

25 1. The section of this Act enacting section 421.48.

26 2. The section of this Act amending section 423.3,
27 subsection 80.

28 3. The section of this Act amending section 429.2.

29 4. The section of this Act amending section 437A.15.

30 5. The section of this Act amending section 437B.11.

31 6. The sections of this Act amending section 476C.3.

32 Sec. 13. RETROACTIVE APPLICABILITY. The following
33 provision or provisions of this Act apply retroactively to
34 January 1, 2015, for construction contracts entered into on or
35 after that date:

1 1. The section of this Act amending section 423.3,
2 subsection 80.

3 Sec. 14. RETROACTIVE APPLICABILITY. The following
4 provision or provisions of this Act apply retroactively to
5 January 1, 2016:

6 1. The section of this Act amending section 437A.15.

7 2. The section of this Act amending section 437B.11.

8 Sec. 15. RETROACTIVE APPLICABILITY. The following
9 provision or provisions of this Act apply retroactively to
10 January 1, 2015, for tax years beginning on or after that date:

11 1. The section of this Act enacting section 422.11L,
12 subsection 6.

13 Sec. 16. RETROACTIVE APPLICABILITY. The following
14 provision or provisions of this Act apply retroactively to
15 January 1, 2015, for tax years beginning on or after that date:

16 1. The sections of this Act amending section 476C.3.

17 Sec. 17. RETROACTIVE APPLICABILITY. The following
18 provision or provisions of this Act apply retroactively to
19 applications for the renewable energy tax credit made on or
20 after June 26, 2015:

21 1. The sections of this Act amending section 476C.3.

22 Sec. 18. RETROACTIVE APPLICABILITY. The following
23 provision or provisions of this Act apply retroactively to May
24 22, 2015:

25 1. The section of this Act amending section 429.2.

26 Sec. 19. APPLICABILITY. The section of this Act amending
27 section 423.3, subsection 80, applies to purchases made on or
28 after the effective date of the section of this Act amending
29 section 423.3, subsection 80.